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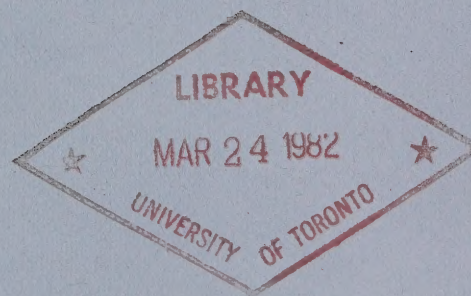


NATIONAL ENERGY BOARD REASONS FOR DECISION

**In the Matter of an Application under
The National Energy Board Act of**

Foothills Pipe Lines (Alta.) Ltd.

**For the Taking of
Additional Lands**



December 15, 1981

NATIONAL ENERGY BOARD

REASONS FOR DECISION

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The National Energy Board Act of

Foothills Pipe Lines (Alta.) Ltd.

For the Taking of

Additional Lands

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Ce rapport est publié
séparément dans les deux
langues officielles.

NATIONAL ENERGY BOARD

IN THE MATTER of an application, dated the 30th day of June, 1981, as amended, by Foothills Pipe Lines (Alta.) Ltd. for Authority to take Additional Lands, required for the Construction, Maintenance and Operation of a Pipeline, pursuant to section 74 of the National Energy Board Act.

Northern Pipeline Agency File No. 8267.

Heard at the City of Calgary, in the Province of Alberta, on the 10th day of August and the 23rd day of November, 1981.

BEFORE:

W.A. Scotland, Designated Officer
Northern Pipeline Agency,

pursuant to the powers, duties and functions delegated to him by the National Energy Board in its Order No. NPO-1-78, dated the 27th day of July, 1978.


APPEARANCES:

August 10, 1981:

G.E. Anderson	Foothills Pipe Lines (Alta.) Ltd.
W. Gordon Will	Will Farms Ltd.
L.G. Ganne	Northern Pipeline Agency

November 23, 1981:

G.E. Anderson	Foothills Pipe Lines (Alta.) Ltd.
L.G. Ganne	Northern Pipeline Agency



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BACKGROUND

The National Energy Board Act (NEB Act) provides, under section 73, that a pipeline company may, without the consent of the owner, take lands for right-of-way to a maximum breadth of sixty feet (18.288 m). Under section 74⁽¹⁾ of the same Act, a company may apply to the National Energy Board (the Board) for authority to take additional lands without the consent of the owner if such lands are required for the efficient construction, maintenance or operation of a pipeline or for constructing or taking any works or measures ordered by the Board.

The Northern Pipeline Act was enacted to establish the Northern Pipeline Agency (the Agency) to facilitate the planning and construction of a pipeline which has become known as the Alaska Highway Gas Pipeline (AHGP). Foothills Pipe Lines (Alta.) Ltd. [Foothills (Alta.)], a subsidiary of Foothills Pipe Lines (Yukon) Ltd., is the company which will own and operate the segments of the AHGP which are being constructed in Alberta.

Subsection 6(1) of the Northern Pipeline Act provides for the delegation of certain powers, duties and functions of the Board under the NEB Act to the Designated Officer of the Agency. The Board by its Order No. NPO-1-78⁽²⁾ delegated to William Alexander Scotland, Designated Officer and Deputy Administrator of the Agency, its powers, duties and functions in respect of certain sections of the NEB Act including section 74 for the Canadian section of the AHGP. This hearing was conducted pursuant to those delegated powers.

(1) See Appendix I

(2) See Appendix II

THE APPLICATION

Foothills (Alta.) applied to the Board in its application for authority to take additional lands along its proposed right-of-way within Zone 6⁽³⁾ between kilometre posts 143.1 and 146.1.

The original application would have provided Foothills (Alta.) with a pipeline right-of-way and permanent working space of 29 metres (95.1 feet) in breadth and a temporary working space of 10 metres (30.48 feet) in breadth.

The original application was amended at the August 10th Hearing, to limit the application to the construction of a pipeline for the conveyance of Natural Gas only.

Foothills (Alta.) further amended the application at the November 23rd Hearing, to delete the use of temporary working space.

Foothills (Alta.) classified the additional lands applied for in its amended application into two categories of linear land use:

Schedule "A" lands, being additional right-of-way on which Foothills (Alta.) may carry on pipeline construction and maintenance including ditching and installation of pipeline.

Schedule "B" lands, being additional right-of-way providing permanent working space adjacent to the sixty foot (18.288 metre) right-of-way permitted under section 73 of the NEB Act. The permanent working space lies entirely within an existing right-of-way of NOVA, AN ALBERTA

(3) Zone 6 is described in Annex II of Schedule I to the Northern Pipeline Act as the route from Caroline, Alberta to the Alberta-Saskatchewan Border near Empress, Alberta.

CORPORATION (NOVA). The activities Foothills (Alta.) may conduct on the permanent working space are the normal pipeline construction and maintenance activities limited generally to surface use. The permanent working space cannot be used for ditching or laying of pipe.

August 10, 1981

With this letter, a notice of objection (5) and a motion for reconsideration (6) are being filed with the Board of Appeal, objecting to the granting of the application for a patent in Canada, the notice of hearing, the form, 5/15 and dated of the application, the objection of the Designated Officer, the filing of additional data, the amendments proposed by Foothills (Alta.) and the discrepancy between the information supplied by Foothills (Alta.) as an exhibit to the hearing and the information submitted in support of the patent application. The Board of Appeal has been advised of the filing of this notice of objection and motion for reconsideration.

Foothills (Alta.) made a motion to amend its application by the deletion of, among other things, the words "and artificial" and "and other means of liquid hydrocarbon" and any "products" by-product thereof.

At the hearing, the Designated Officer granted the amendment to the application (6) and denied the said motion made by Foothills (Alta.) to amend its application. The Board of Appeal has been advised of the filing of this notice of objection and motion for reconsideration.

- (1) See Appendix V.
- (2) See Appendix VI.
- (3) See Appendix VII.
- (4) See Appendix VIII.
- (5) See Appendix IX.
- (6) See Appendix X.

EVIDENCE

The lands subject to this application are located in the 1982 Eastern Leg construction phase of the Foothills (Alta.) pipeline.

Foothills (Alta.) entered evidence that Will Farms Ltd. had been duly served with Notice of this Hearing as required by Order No. NP-MH-5-81⁽⁴⁾, dated the 6th day of July, 1981.

August 10, 1981

Will Farms Ltd. filed a notice of objection⁽⁵⁾ and a motion pertaining thereto, objecting to the granting of the application, the Hearing Order, the Notice of Hearing, the form, style and content of the application, the jurisdiction of the Designated Officer, the taking of additional lands, the agreements proposed by Foothills (Alta.), and the discrepancy between the information supplied by Foothills (Alta.) at an earlier route hearing and the information submitted in support of its present application.

Foothills (Alta.) made a motion to amend its application by the deletion of, where they occur therein, the words "and artificial" and "and other gaseous or liquid hydrocarbons and any products or by-products thereof".

After hearing argument, the Designated Officer granted the amendment to the said application⁽⁶⁾ and denied the said motion made by Will Farms Ltd.⁽⁷⁾.

(4) See Appendix III.

(5) See Appendix IV.

(6) See Appendix V.

(7) See Appendix VI.

At the end of the first day of the Hearing, Foothills (Alta.) with the concurrence of Will Farms Ltd., requested that the hearing be adjourned, sine die, to permit further negotiations between the two parties. The Designated Officer granted the request.

November 23, 1981

Foothills (Alta.) subsequently requested that the hearing be reconvened in order that its application could be further amended to reflect the agreement reached with Will Farms Ltd.

Foothills (Alta.) filed as "EXHIBIT NO. 11", a signed copy of an agreement⁽⁸⁾ between Foothills (Alta.) and Will Farms Ltd., dated the 10th day of August, 1981, which inter alia limited the overall width of its right-of-way to 95.1 feet (29 metres), comprised of "Right-of-Way" and "Permanent Working Space".

Foothills (Alta.) then made a motion to further amend its application to comply with the terms of the agreement, by deleting all reference to the use of "Temporary Working Space".

After hearing argument, the Designated Officer granted the motion to further amend the application.

Foothills (Alta.) stated that it required the additional lands because the lands, sixty feet (18.288 metres) in breadth, which are permitted to be taken for the right-of-way of a pipeline under section 73 of the NEB Act, are insufficient to allow Foothills (Alta.) to efficiently construct, maintain and operate its 1,067 mm (42") diameter pipeline in accordance with accepted practices in the pipeline industry.

(8) See Appendix VII.

Foothills (Alta.) filed a diagram showing its proposed right-of-way configuration for construction⁽⁹⁾.

Foothills (Alta.) stated that the 29 metres (95.1 feet) of Schedule "A" lands and Schedule "B" lands that it requires would be used as follows:

- (a) 2.0 metres (6.6 feet) for the ditch to accommodate the pipe;
- (b) 6.2 metres (20.3 feet) on which to place subsoil removed from the ditch during construction and any maintenance of the pipeline;
- (c) 3.8 metres (12.4 feet) in order to facilitate preservation of topsoil removed from the ditch during construction and any maintenance of the pipeline;
- (d) 6.0 metres (19.7 feet) for the assembling and welding of the pipe prior to installation during construction and any maintenance of the pipeline;
- (e) 6.1 metres (20 feet) for the operation of lifting equipment engaged in the construction and any maintenance of the pipeline; and
- (f) 4.9 metres (16.1 feet) to allow for the passage of vehicles and other machinery during construction and any maintenance of the pipeline.

Foothills (Alta.) stated that it has adopted a pipeline corridor concept for the location of its pipeline which has substantially reduced its overall land requirements. Foothills (Alta.) further

(9) See Figure 1.

stated that, where possible, it has located its pipeline immediately adjacent to the right-of-way of NOVA and proposes to use up to a maximum of 8.667 metres (28.44 feet) of the NOVA right-of-way for permanent working space.


VIEWS OF THE DESIGNATED OFFICER

The evidence presented by Foothills (Alta.) at the November 23rd Hearing, in support of its request for the additional lands, in the form of permanent right-of-way and permanent working space demonstrated a need for the said lands. It would appear that agreement on all matters except compensation has been reached between Foothills (Alta.) and the landowner, Will Farms Ltd.

I conclude that Foothills (Alta.) requires the additional lands requested in this application, as amended, for the efficient construction, maintenance and operation of its pipeline.

DECISION

Having considered the evidence and argument presented to me with respect to the application, as amended, of Foothills (Alta.) for leave to take additional lands and having taken into account all matters that appear to me to be relevant, and the fact that Will Farms Ltd. has consented to the taking of its lands, howbeit not to the compensation offered for the said taking, I am satisfied that granting permission to Foothills (Alta.) to take the additional lands requested is necessary for the efficient construction, maintenance and operation of its proposed pipeline. I, therefore, have issued an order authorizing the taking of such lands effective as of the closing of this hearing.

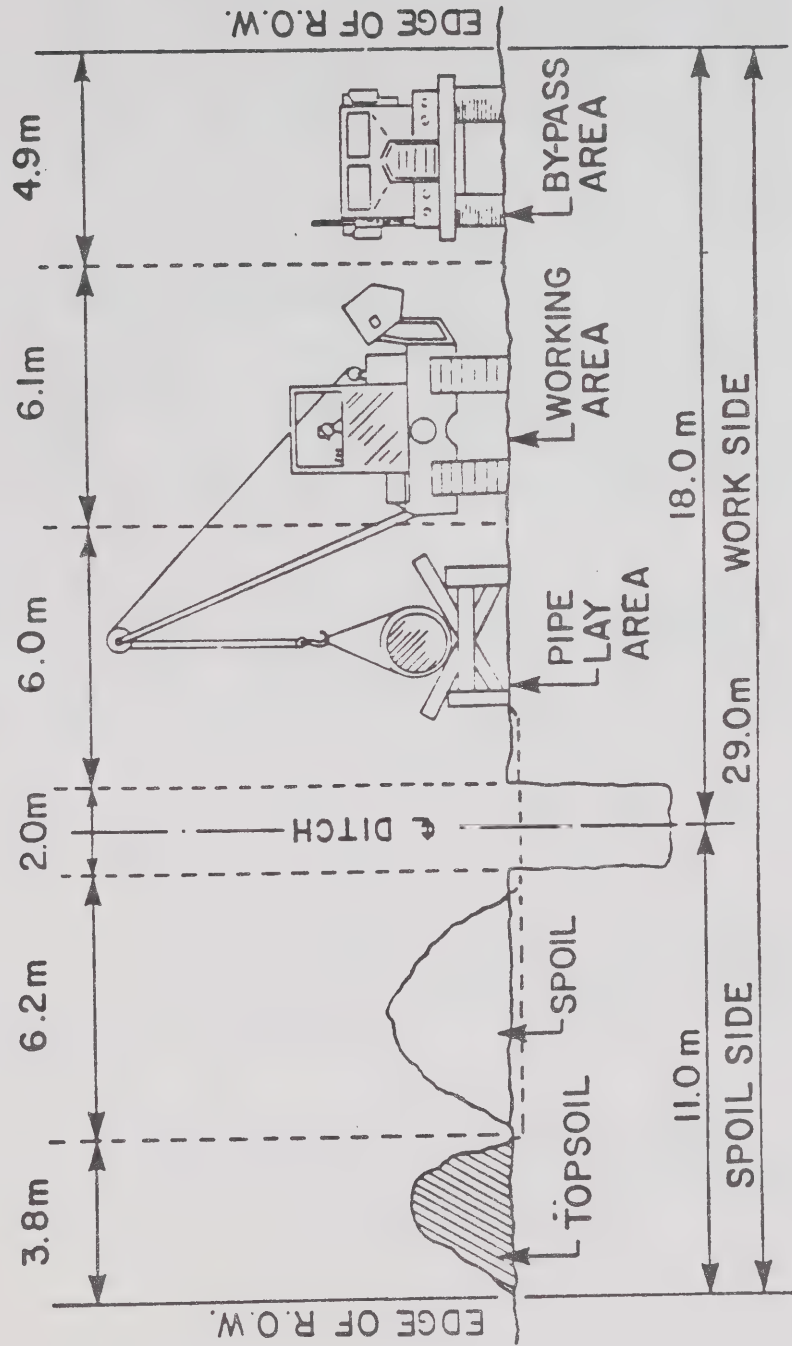


W.A. Scotland
Designated Officer
Northern Pipeline Agency

Calgary, Alberta December 15, 1981

**RIGHT-OF-WAY CONFIGURATION (29m)
FOR 1067mm EASTERN LEG**

Figure 1



RIGHT OF WAY CONFIGURATION
EASTERN LEG
A.H.P.P. 59

SECTION 74 OF THE NATIONAL ENERGY BOARD ACT

74.(1) Where a company at any time requires more ample space than it possesses or may take under section 73, for the efficient construction, maintenance or operation of a pipeline or for constructing or taking any works or measures ordered by the Board, it may apply to the Board for authority to take, without the consent of the owner, the additional lands required for such purposes.

(2) The Board shall set a time for the hearing of the application which shall be sufficient to permit at least twenty-one days notice thereof to be given by the company to the owners or possessors of the additional lands required, and the company shall give notice thereof accordingly and shall, upon such hearing, furnish to the Board copies of such notices, with affidavits of the service thereof.

(3) The company, upon the application, shall also furnish to the Board such plans, profiles and books of reference and additional information as the Board may require.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion and upon such terms and conditions as it deems expedient, authorize in writing the taking for the said purposes of the whole or any portion of the lands applied for.

(5) Copies of the authorization of the Board and of the plan, profile and book of reference, certified as such by the Secretary of the Board shall be deposited with the registrars of deeds of the districts or counties in which the lands are situated.

NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NPO-1-78

IN THE MATTER OF the Northern Pipeline Act; and

IN THE MATTER OF the delegation by the National Energy Board of certain of its powers, duties and functions under the National Energy Board Act, pursuant to subsection 6(1) of the Northern Pipeline Act.

B E F O R E the Board on Thursday, the 27th day of July, 1978.

WHEREAS the Governor in Council having, by Order in Council P.C. 1978-1631, dated the 11th day of May, 1978, and pursuant to subsection 5(4) of the Northern Pipeline Act, designated William Alexander Scotland, an Associate Vice-Chairman of the Board, as a deputy to the Administrator of the Northern Pipeline Agency, effective the 15th day of May, 1978;

AND WHEREAS William Alexander Scotland, as a deputy to the said Administrator, is the "designated officer" within the meaning of subsection 2(1) of the Northern Pipeline Act;

AND WHEREAS the National Energy Board may, by order, in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, delegate to the designated officer certain of the powers, duties and functions of the Board under the National Energy Board Act, as more particularly set forth in subsection 6(1) of the Northern Pipeline Act;

AND WHEREAS the National Energy Board considers it necessary and desirable to delegate to the designated officer certain of its powers, duties and functions under the National Energy Board Act in respect to the pipeline referred to in subsection 2(1) of the Northern Pipeline Act;

1. IT IS ORDERED THAT the powers, duties and functions of the National Energy Board under the following provisions of the National Energy Board Act, namely:

subsections 29(2) and 29(4)
subsection 32(2)
section 35

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subsections 36(2) and 36(3)
section 37
section 68
section 74
section 76
section 77

be and the same are hereby delegated to the designated officer, solely in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act.

2. AND IT IS FURTHER ORDERED THAT, for the purpose only of exercising and performing the powers, duties and functions of the Board set forth in paragraph 1 of this Order in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, the powers of the National Energy Board under the following provisions of the National Energy Board Act, namely:

subparagraphs 7(a) and 7(b)
subsection 10(3)
section 11
section 12
subsection 14(2)
section 16
subsection 17(1)
subsection 20(3)

be and the same are hereby delegated to the designated officer.

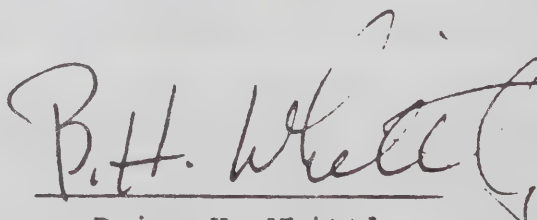
3. AND IT IS FURTHER ORDERED THAT the delegation by the Board of its powers, duties and functions as set out in paragraphs 1 and 2 hereof, shall be effective on the 27th day of July, 1978, in respect of the whole of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, and shall terminate in respect of each section of the said pipeline on the day on which the Board grants leave to open, pursuant to section 38 of the National Energy Board Act, for each such section of the said pipeline.

NATIONAL ENERGY BOARD
CANADA

NATIONAL ENERGY BOARD

EXAMINED AND CERTIFIED TO BE A TRUE COPY
OF AN ORDER OF THE NATIONAL ENERGY
BOARD. MAY - 9 1980
DATED AT

SECRETARY, NATIONAL ENERGY
BOARD, OTTAWA, CANADA


Brian H. Whittle
Secretary

NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NP-MH-5-81

IN THE MATTER OF the National Energy Board Act
and the Regulations made thereunder; and

IN THE MATTER OF an application made by Foot-
hills Pipe Lines (Alta.) Ltd. (hereinafter
called "the Applicant") for authority to take,
without the consent of the owner, certain
additional lands required for the construc-
tion, maintenance and operation of the pipe-
line of the Applicant pursuant to the provi-
sions of section 74 of the said Act; and

IN THE MATTER OF ORDER NO. NPO-1-78, dated the
27th day of July, 1978, made by the National
Energy Board pursuant to the provisions of
subsection 6(1) of the Northern Pipeline Act,
whereby the Board did delegate to William
Alexander Scotland as Designated Officer,
Northern Pipeline Agency, certain of its
powers, duties and functions under the
National Energy Board Act, including the
provisions of section 74 of the said Act, in
respect of the pipeline referred to in
subsection 2(1) of the Northern Pipeline Act.

Agency File No. 8267.

B E F O R E the Designated Officer on Monday, the 6th day of July,
1981.

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UPON reading the application, dated the 30th day of June, 1981, made by the Applicant:

IT IS ORDERED THAT

1. The Application will be heard in Board Room 403, in the offices of the Northern Pipeline Agency, located in Suite 400, Shell Centre, 400 Fourth Avenue South West, in the City of Calgary, in the Province of Alberta, on the 10th day of August, 1981, commencing at the hour of 10:00 A.M. local time.
2. Notice of the hearing in the form prescribed by the Designated Officer, Northern Pipeline Agency, as set forth in the Notice attached to and which forms part of this Order shall be published not later than the 17th day of July, 1981, in one issue each of the "Calgary Herald" and the "Calgary Sun" both in the City of Calgary, in the Province of Alberta, and as soon as possible in the "Canada Gazette".
3. Notice of the hearing shall forthwith be given by the Applicant by service of a true copy of this Order and of the application filed, upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario), Unifarm (at 9934-106th Street, Edmonton, Alberta) and the owner or possessor of the additional lands required, not less than twenty-one (21) days prior to the date set down for the hearing, and the Applicant shall, upon such hearing, furnish to the Designated Officer, Northern Pipeline Agency, copies of such notices with the affidavits of the service thereof.
4. Any respondent or intervenor intending to oppose or intervene in the application shall file, on or before the 3rd day of August, 1981, with the Designated Officer, Northern Pipeline Agency, four (4)

.../3

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copies of a written statement containing his/her reply or submission, together with any supporting information, particulars or documents, which shall contain a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be determined, which may admit or deny any or all of the facts alleged in the application, and which shall be endorsed with the name and address of the respondent or intervenor or his/her solicitor to whom communications may be sent. Any respondent or intervenor shall, in addition, serve three (3) copies of his/her reply or submission and supporting information, particulars or documents, upon the Applicant and one (1) copy each upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario) and Unifarm (at 9934-106th Street, Edmonton, Alberta).

4. Any interested party may examine a copy of the application and the submissions filed therewith at the office of:

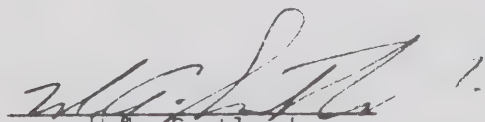
Northern Pipeline Agency
4th Floor - Shell Centre
400 Fourth Avenue South West
Calgary, Alberta T2P 0J4

or at the office of the Applicant's Agent:

The Alaska Project Division of
NOVA, AN ALBERTA CORPORATION
104 Fourth Avenue South East
Calgary, Alberta T2P 2M7
(Please contact D.T. Rigby,
Supervisor, Regulatory Affairs).

Dated at the City of Calgary, in the Province of Alberta,
this 6th day of July, 1981.

NATIONAL ENERGY BOARD


W.A. Scotland
Designated Officer,
Northern Pipeline Agency.

NATIONAL ENERGY BOARD
NOTICE OF HEARING

TAKE NOTICE that pursuant to the National Energy Board Act and the Regulations made thereunder, the Designated Officer, Northern Pipeline Agency, has ordered a hearing to be held in Board Room 403, in the offices of the Northern Pipeline Agency, located in Suite 400, Shell Centre, 400 Fourth Avenue South West, in the City of Calgary, in the Province of Alberta, on the 10th day of August, 1981, commencing at the hour of 10:00 A.M. local time, to hear the application of Foothills Pipe Lines (Alta.) Ltd. for leave to take, without the consent of the owner, certain additional lands pursuant to the provisions of section 74 of the Act, consisting of,

- (a) "Additional Right-of-Way", containing by admeasurement approximately 0.6 of a hectare (about 1.6 acre),
- (b) "Permanent Working Space", containing by admeasurement approximately 2.6 hectares (about 6.3 acres), and
- (c) "Temporary Working Space", containing by admeasurement approximately 3.0 hectares (about 7.4 acres),

in Lots 11, 13, 6, 8 and 10, all in Parcel C, Plan Grasswold 5755 A.W., all West of the Fourth Meridian, in the Province of Alberta, required for the efficient construction, maintenance and operation of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act and as more particularly described in the said application.

AND THE DESIGNATED OFFICER, NORTHERN PIPELINE AGENCY, HAS FURTHER ORDERED THAT:

1. Any respondent or intervenor intending to oppose or intervene in the application shall file, on or before the 3rd day of August, 1981, with the Designated Officer, Northern Pipeline Agency, four (4)

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copies of a written statement containing his/her reply or submission, together with any supporting information, particulars or documents, which shall contain a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be determined, which may admit or deny any or all of the facts alleged in the application, and which shall be endorsed with the name and address of the respondent or intervenor or his/her solicitor to whom communications may be sent. Any respondent or intervenor shall, in addition, serve three (3) copies of his/her reply or submission and supporting information, particulars or documents, upon the Applicant and one (1) copy each upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario) and Unifarm (at 9934 - 106th Street, Edmonton, Alberta).

2. Any interested party may examine a copy of the application and the submissions filed therewith at the office of:

Northern Pipeline Agency
4th Floor - Shell Centre
400 Fourth Avenue South West
Calgary, Alberta T2P 0J4

or at the office of the Applicant's Agent:

The Alaska Project Division of
NOVA, AN ALBERTA CORPORATION
104 Fourth Avenue South East
Calgary, Alberta T2P 2M7
(Please contact D.T. Rigby
Supervisor, Regulatory Affairs).

DATED at the City of Calgary, in the Province of Alberta,
this 6th day of July, 1981.

NATIONAL ENERGY BOARD

"W. A. Scotland"
W. A. Scotland
Designated Officer,
Northern Pipeline Agency.

EXHIBIT NO. 7

NOTICE OF OBJECTION

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder; and

IN THE MATTER OF an application made by Foothills Pipe Lines (Alta) Ltd. (hereinafter called "the Applicant") for the authority to take, without the consent of the owner, certain additional lands required for the construction, maintenance and operation of the pipeline of the Applicant pursuant to the provisions of section 74 of the said act; and

IN THE MATTER OF ORDER NO. NPO-1-78, dated the 27th day of July, 1978 made by the National Energy Board pursuant to the provisions of subsection 6(1) of the Northern Pipeline Act, whereby the Board did delegate to William Alexander Scotland as Designated Officer, Northern Pipeline Agency, certain of its powers, duties and functions under the National Energy Board Act, including the provisions of section 74 of the said Act, in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act; and

IN THE MATTER OF certain lands (hereinafter referred to as the said lands) described as follows:

Lot 11 Parcel C Plan Grasswold 5755 A.W.

Lot 13 Parcel C Plan Grasswold 5755 A.W.

Lot 6 Parcel C Plan Grasswold 5755 A.W.

Lot 8 Parcel C Plan Grasswold 5755 A.W.

Lot 10 Parcel C Plan Grasswold 5755 A.W.

TO

The Designated Officer
Northern Pipeline Agency
4th Floor - Shell Centre
400 Fourth Avenue South West
Calgary, Alberta
T2P 0J4

TAKE NOTICE THAT Will Farms Ltd., a body corporate registered under the laws of The Province of Alberta, with registered office at P.O. Box 153, Hussar, Alberta, is the registered owner of a estate in fee simple in the said lands and is the occupant and possessor of the said lands;

AND FURTHER TAKE NOTICE Will Farms Ltd. hereby objects to the granting of the application referred to above.

Will Farms Ltd. objects to and protests paragraph (4) and the paragraph immediately following paragraph (4) which is also numbered paragraph (4) of Order No. NP-MH-5-81.

Will Farms Ltd. objects to and protests paragraph (1) and paragraph (2) of the NATIONAL ENERGY BOARD - NOTICE OF HEARING.

Will Farms Ltd. objects to the form, style and content of the Application and disputes the jurisdiction of the Designated Officer to make orders in the matter or to hear the matter.


Will Farms Ltd. objects to and opposes as not necessary the taking of additional land referred to in the Application as "Additional Right-of-Way".

Will Farms Ltd. objects to and opposes as not necessary the taking of additional land referred to in the Application as "Permanent Working Space".

Will Farms Ltd. objects to and opposes as not necessary the taking of additional land referred to in the Application as "Temporary Working Space".

Will Farms Ltd. objects to and opposes the Application because the information that was supplied to Will Farms Ltd. by Foothills Pipe Lines (Alta) Ltd. in proposed agreements and in material submitted and supplied to Will Farms Ltd. by Foothills Pipe Lines (Alta) Ltd. and the Northern Pipeline Agency at and for the Detailed Route Hearing contradicts information now being submitted in support of this Application.

Will Farms Ltd. hereby disputes and denies all of paragraphs 1, 2, 3, 4, 5, 6, and 7 of the declaration in support of the application.

July 31, 1981
Will Farms Ltd.
per 
W. Gordon Will, Secretary

Address for Notices:

Will Farms Ltd.
P.O. Box 153
Hussar, Alberta
T0J 1S0

NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NP-PO-1-NP-MH-5-81

IN THE MATTER OF the National Energy Board Act, the Regulations made thereunder, and the Rules of Practice and Procedure pertaining to said Act; and

IN THE MATTER OF the Northern Pipeline Act; and

IN THE MATTER OF an application by Foothills Pipe Lines (Alta.) Ltd. (hereinafter called the "Applicant"), dated the 30th day of June, 1981, for authority to take for pipeline purposes certain "Additional Right-of-Way", "Permanent Working Space" and "Temporary Working Space" on, over and across certain lands, in the Province of Alberta, pursuant to the provisions of section 74 of the National Energy Board Act; and

IN THE MATTER OF ORDER NO. NPO-1-78, dated the 27th day of July, 1978, made by the National Energy Board pursuant to the provisions of subsection 6(1) of the Northern Pipeline Act, whereby the Board did delegate to William Alexander Scotland as Designated Officer, Northern Pipeline Agency, certain of its powers, duties and functions under the National Energy Board Act, including the provisions of section 74 of the said Act, in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act; and

IN THE MATTER OF a Motion by George E. Anderson counsel for the Applicant, made on the 10th day of August, 1981, at a Hearing held in Calgary, in the Province of Alberta, pertaining to certain amendments to the aforementioned application.

Agency File No. 8267.

UPON HAVING CONSIDERED the Motion brought before me by George E. Anderson pertaining to certain amendments to the aforementioned application, by deleting therefrom the following words, namely,

- (a) "...and artificial...", and
- (b) "...and other gaseous or liquid hydrocarbons and any products or by-products thereof...",

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wherever they occur therein, which said application was entered as "EXHIBIT NO. 1", at the Hearing called pursuant to Order No. NP-MH-5-81, dated the 6th day of July, 1981;

AND HAVING FURTHER CONSIDERED the argument made in support of said Motion by George E. Anderson, and the comments and argument by W. Gordon Will, on behalf of Will Farms Ltd., and the views of L.G. Ganne, Legal Counsel to the Northern Pipeline Agency;

AND HAVING FURTHER CONSIDERED all the facts which appear to be relevant, I HEREBY grant the Motion by George E. Anderson to amend the said application as aforesaid and ORDER that the said application be considered amended as requested.

Dated at the City of Calgary, in the Province of Alberta, this 10th day of August, 1981.

NATIONAL ENERGY BOARD


W.A. Scotland

NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NP-PO-2-NP-MH-5-81

IN THE MATTER OF the National Energy Board Act, the Regulations made thereunder, and the Rules of Practice and Procedures pertaining to said Act; and

IN THE MATTER OF the Northern Pipeline Act; and

IN THE MATTER OF an application by Foothills Pipe Lines (Alta.) Ltd., dated the 30th day of June, 1981, for authority to take for pipeline purposes certain "Additional Right-of-Way", "Permanent Working Space" and "Temporary Working Space" on, over and across certain lands, in the Province of Alberta, pursuant to the provisions of section 74 of the National Energy Board Act; and

IN THE MATTER OF ORDER NO. NPO-1-78, dated the 27th day of July, 1978, made by the National Energy Board pursuant to the provisions of subsection 6(1) of the Northern Pipeline Act, whereby the Board did delegate to William Alexander Scotland as Designated Officer, Northern Pipeline Agency, certain of its powers, duties and functions under the National Energy Board Act, including the provisions of section 74 of the said Act, in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act; and

IN THE MATTER OF a NOTICE OF OBJECTION and the Motion pertaining thereto by W. Gordon Will, made on behalf of Will Farms Ltd., on the 10th day of August, 1981, at a Hearing held in Calgary in the Province of Alberta, inter alia objecting, protesting and disputing, as the case may be, as more particularly set forth in the first three unnumbered paragraphs on Page 3 of the aforementioned NOTICE OF OBJECTION.

Agency File No. 8267.

UPON HAVING CONSIDERED the NOTICE OF OBJECTION, dated "July 31, 1981", by W. Gordon Will, made on behalf of Will Farms Ltd., entered as "EXHIBIT

- 2 -

NO. 7", at the Hearing held on the 10th day of August, 1981, as ordered by Order No. NP-MH-5-81, dated the 6th day of July, 1981, and the Motion brought before me by W. Gordon Will pertaining to said NOTICE OF OBJECTION;

AND WHEREAS said NOTICE OF OBJECTION inter alia objects to, protests and disputes, as the case may be, certain matters as more particularly set forth in the first three unnumbered paragraphs on Page 3 of the said NOTICE OF OBJECTION;

AND HAVING FURTHER CONSIDERED the nature of the powers, duties and functions of the National Energy Board delegated to me by the Board by said Order No. NPO-1-78;

AND HAVING FURTHER CONSIDERED the arguments presented by W. Gordon Will, and George E. Anderson, representing Foothills Pipe Lines (Alta.) Ltd., as well as the comments made by L.G. Ganne, Legal Counsel to the Northern Pipeline Agency;

AND HAVING TAKEN into account my ruling as more particularly set forth in Order No. NP-PO-1-NP-MH-5-81, dated the 10th day of August 1981;

AND HAVING FURTHER CONSIDERED all the facts which appear to be relevant I HEREBY

1. FIND that said Order No. NP-MH-5-81 conformed to the National Energy Board Rules of Practice and Procedure, which Rules of Practice and Procedure were followed by me in exercising those powers, duties and functions delegated to me by the National Energy Board;
2. FURTHER FIND that the "Notice of Hearing" attached to and forming part of said Order No. NP-MH-5-81 conformed to said Order;
3. FURTHER FIND that I am empowered to hear the application by Foothills Pipe Lines (Alta.) Ltd. amended as more particularly set out in said Order No. NP-PO-1-NP-MH-5-81.

ACCORDINGLY I HEREBY deny the Motion by W. Gordon Will.

Dated at the City of Calgary, in the Province of Alberta, this 10th day of August, 1981.

NATIONAL ENERGY BOARD


W.A. Scotland

EXHIBIT NO. 11

CONSENT TO TAKE LANDS

IN THE MATTER OF THE Northern Pipeline Act being Chapter 20 of the Statutes of Canada, 1977 - 78, and Schedules thereto;

AND IN THE MATTER OF the National Energy Board Act being Chapter N6 of the Revised Statutes of Canada, 1970, Regulations made thereunder and Amendments thereto;

AND IN THE MATTER OF Sections 145 to 184 and 186 of the Railway Act, being Chapter R2 of the Revised Statutes of Canada, 1970 and Amendments thereto;

AND IN THE MATTER OF the expropriation by Foothills Pipe Lines (Alta.) Ltd. of certain, rights, interests and powers in lands owned by WILL FARMS LTD.

THIS AGREEMENT MADE AS OF THE *10th* DAY OF
AUGUST A.D., 1981.

BETWEEN

FOOTHILLS PIPE LINES (ALTA.) LTD.
(hereinafter referred to as "Foothills")

OF THE FIRST PART

AND:

WILL FARMS LTD.
(hereinafter referred to as "Owner")

OF THE SECOND PART

- 2 -

WHEREAS pursuant to Section 20, Subsection 1 of the Northern Pipeline Act, a certificate of public convenience and necessity was declared to be issued to Foothills for inter-alia a certain portion of a pipeline as defined in the said Northern Pipeline Act (hereinafter called the "Pipeline") which is to proceed from the James River in a southeasterly direction to a point on the Alberta-Saskatchewan boundary near Empress, Alberta.

WHEREAS Owner is the registered owner of an estate in fee simple, subject however, to such encumbrances, liens and interests as are set forth in the existing certificates of title, in certain tracts of land situate in the Province of Alberta and more particularly described in Schedule "A" hereof (hereinafter called the "Lands").

AND WHEREAS pursuant to Section 73 of the National Energy Board Act, the lands that Foothills may, without the consent of Owner, take for the right-of-way of the pipeline shall not exceed 60 feet in breadth;

AND WHEREAS pursuant to Section 74 of the National Energy Board Act, if Foothills requires more ample space than it possesses or may take under Section 73 of the National Energy Board Act, for the efficient construction, maintenance

- 3 -

or operation of the Pipeline, it may apply to the National Energy Board for authority to take, without the consent of Owner, the additional lands required for such purposes;

AND WHEREAS if Foothills applies to the National Energy Board for authority to take, without the consent of Owner, additional lands, the National Energy Board must, prior to authorizing the taking of any lands in addition to the aforementioned 60 feet, hold a hearing of the application;

AND WHEREAS Owner agrees that Foothills requires for the efficient construction, operation and maintenance of a Pipeline a right-of-way, which, including the aforesaid 60 feet, totals 95.1 feet in breath;

AND WHEREAS the parties hereto have not agreed on the compensation to be paid by Foothills to Owner for the taking of the rights, licenses, liberties, privileges and easements described in Schedule "B" attached hereto in, over and/or through the portions of the Lands shown in Schedules "C" and "D" attached hereto and for the damages which may be caused to the Lands by the exercise or use of the said rights, licenses, liberties, privileges and easements;

- 4 -

AND WHEREAS both parties hereto are desirous of maintaining and preserving their respective rights to have the compensation for the aforesaid rights, licenses, liberties, privileges and easements and for the damages which may be caused to the Lands by the exercise or use of the said rights, licenses, liberties, privileges and easements determined by arbitration pursuant to the provisions of the Railway Act;

AND WHEREAS neither of the parties hereto are desirous of proceeding to a hearing before the National Energy Board pursuant to the aforesaid Section 74 of the National Energy Board Act;

NOW THEREFORE in consideration of the sum of Ten Dollars (\$10.00) paid by Foothills to Owner, receipt of which is hereby acknowledged and in consideration of the mutual promises contained herein:

- (1) Owner hereby consents to Foothills taking a right-of-way for the Pipeline being 95.1 feet (29 metres) in breadth and being comprised of the right, license, liberty, privilege and easement in, over and/or through

- 5 -

(a) that portion of the Lands shown shaded in grey or black and labelled "Right-of-Way" on the individual ownership plats forming Schedule "C" attached hereto for the purposes described in Section I of Schedule "B" attached hereto; and

(b) that portion of the Lands shown shaded in grey or black and labelled "Permanent Working Space" on the individual ownership plats forming Schedule "D" attached hereto for the purposes described in Section II of Schedule "B" attached hereto.

and to the exercise and use from the date hereof by Foothills of the said rights, licenses, liberties, privileges and easements.

(2) The parties hereto agree that the compensation to be paid by Foothills for the said rights, licenses, liberties, privileges and easements and for the damages which may be caused to the Lands by the exercise or use of the said rights, licenses, liberties or privileges and easements shall be

- 6 -

settled by arbitration as provided by Sections 145 to 184 and 186 of the Railway Act.

(3) Owner hereby waives all rights which it may have to a hearing before the National Energy Board with respect to the taking of the rights, licenses, liberties, privileges and easements described in this agreement.

(4) The terms, covenants and conditions of this Agreement shall enure to the benefit of and be binding upon the successors-in-title of Owner and the successors and assigns of Foothills.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto under their respective seals and under the hands of their respective employees authorized in that behalf, all as of the date first above written.

WILL FARMS LTD.

Per: FOOTHILLS PIPELINES
(ALTA.) LTD.Per: 

SCHEDULE "A"

Lot Eleven (11), in Parcel "C" on Plan Grasswold 5755 A.W. as contained and described in Certificate of Title No. 151-M-92 and;

Lot Thirteen (13), in Parcel "C" on Plan Grasswold 5755 A.W. as contained and described in Certificate of Title No. 151-M-93 and;

Lot Six (6), in Parcel "C" on Plan Grasswold 5755 A.W. as contained and described in Certificate of Title No. 731050745C and;

Lot Eight (8), in Parcel "C" on Plan Grasswold 5755 A.W. as contained and described in Certificate of Title No. 731050745E and;

Lot Ten (10), in Parcel "C" on Plan Grasswold 5755 A.W. as contained and described in Certificate of Title No. 731050745F. \

SCHEDULE "B"

SECTION I

The additional lands are defined as being those lands over which the Applicant applies for the right to lay down, construct, operate, maintain, inspect, patrol (including aerial patrol), remove, replace, reconstruct and repair a pipeline together with all the works, including but without limiting the generality of the foregoing, all drips, valves, fittings, meters, cathodic protection equipment and appurtenances, whether or not similar to the foregoing, as may be useful or convenient in connection with or incidental to the undertaking of Foothills Pipe Lines (Alta.) Ltd. for carriage, conveyance and transportation of natural gas for so long as Foothills Pipe Lines (Alta.) Ltd. may require such right (hereinafter called the "Additional Right-of-Way").

SECTION II

The additional lands are defined as being those lands over which the Applicant applies for the right to operate, maintain, inspect, patrol (including aerial patrol), remove, replace, reconstruct and repair a pipeline together with all the works, including but without limiting the generality of the foregoing, all drips, valves, fittings, meters, cathodic

protection equipment and other such equipment and appurtenances, whether or not similar to the foregoing as may be useful or convenient in connection with or incidental to the undertaking of Foothills Pipe Lines (Alta.) Ltd. for the carriage, conveyance and transportation of natural gas for so long as Foothills Pipe Lines (Alta.) Ltd. may require such right (hereinafter called the "Permanent Working Space").

SCHEDULE "C"



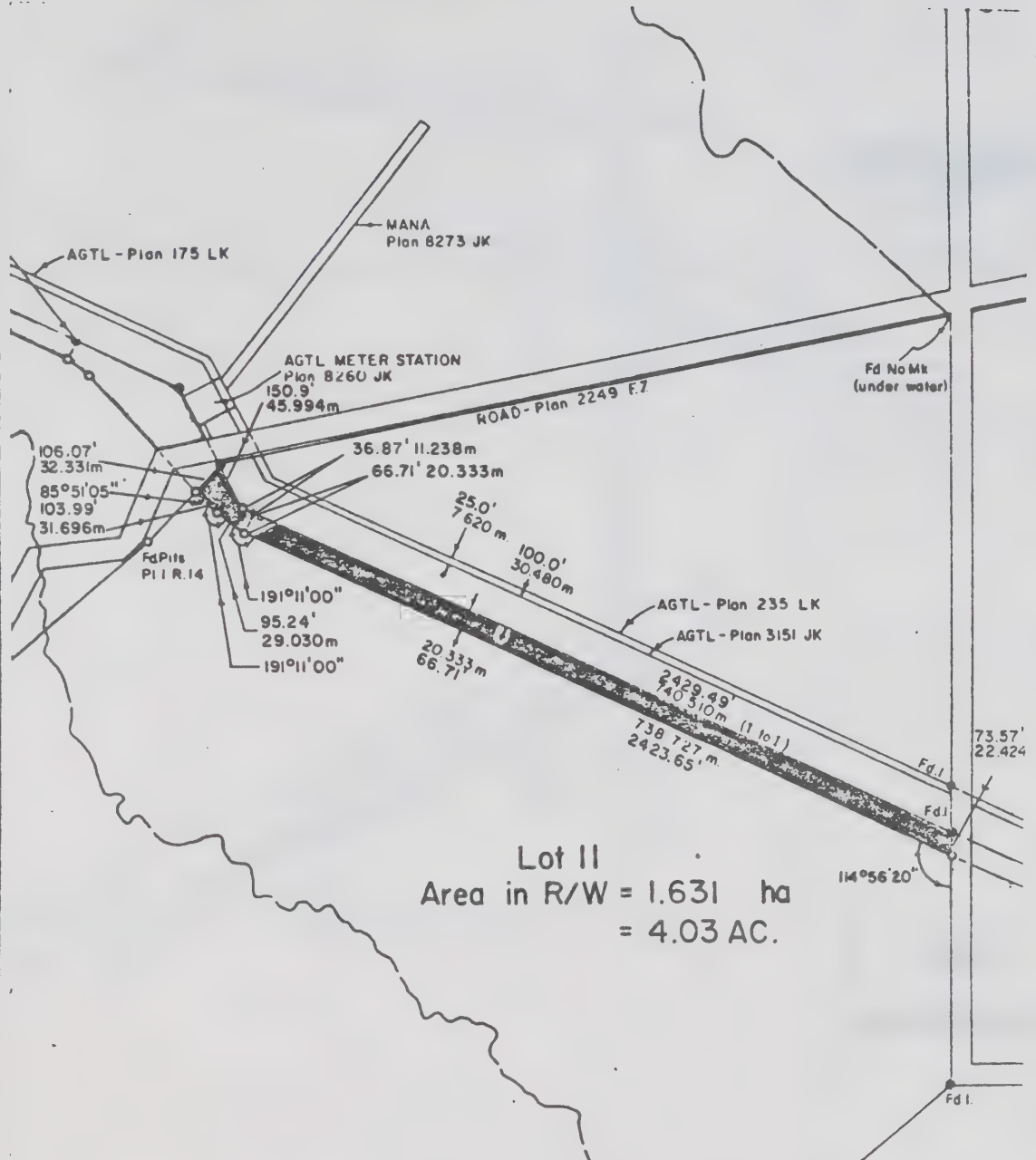
REVISED

FOOTHILLS PIPE LINES (ALTA) LTD. INDIVIDUAL OWNERSHIP PLAN

Showing PIPE LINE RIGHT-OF-WAY

IN LOT II PARCEL C PLAN 5755 AW




Scale · 1 : 5000



Lot II
Area in R/W = 1.631 ha
= 4.03 AC.

OWNER WILL FARMS LTD.

LEGEND

Monuments found shown thus 
 Monuments planted shown thus 
 Portion referred to outlined thus 

TITLE NUMBER 151 M 92

Certified Correct

DATE 22/8/78
REV. 26/6/80

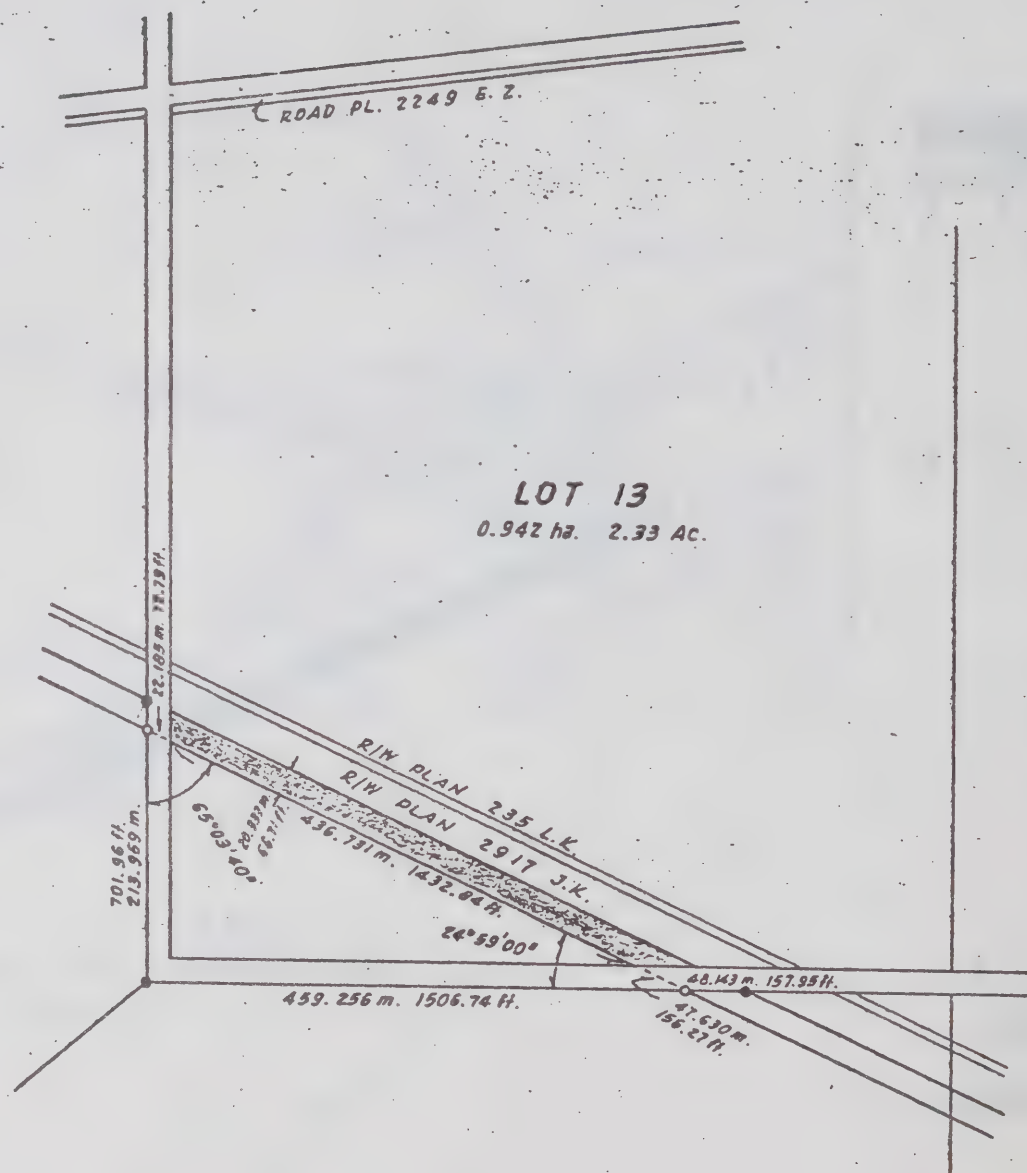
78-378
ALCAN ENGINEERING & SURVEYS (1978) LTD.

ALS

INDIVIDUAL OWNERSHIP PLAN

SHOWING
FOOTHILLS PIPE LINES (ALTA) LTD.
GAS PIPE LINE RIGHT-OF-WAY

Lot 13, Parcel C, Twp 26, Rge. 22, W. 4. Mer.
Plan 5755 A.W.



Owners : WILL FARMS LTD.

C. of T. No. 151 - M - 93

SCALE 1:5000

SURVEY MONUMENT FOUND SHOWN THIS

SURVEY MONUMENT PLANTED SHOWN THIS

PORTIONS REFERRED TO SHOWN THIS

AREA REQ'D : 2.33 ACRES
0.942 HECTARES

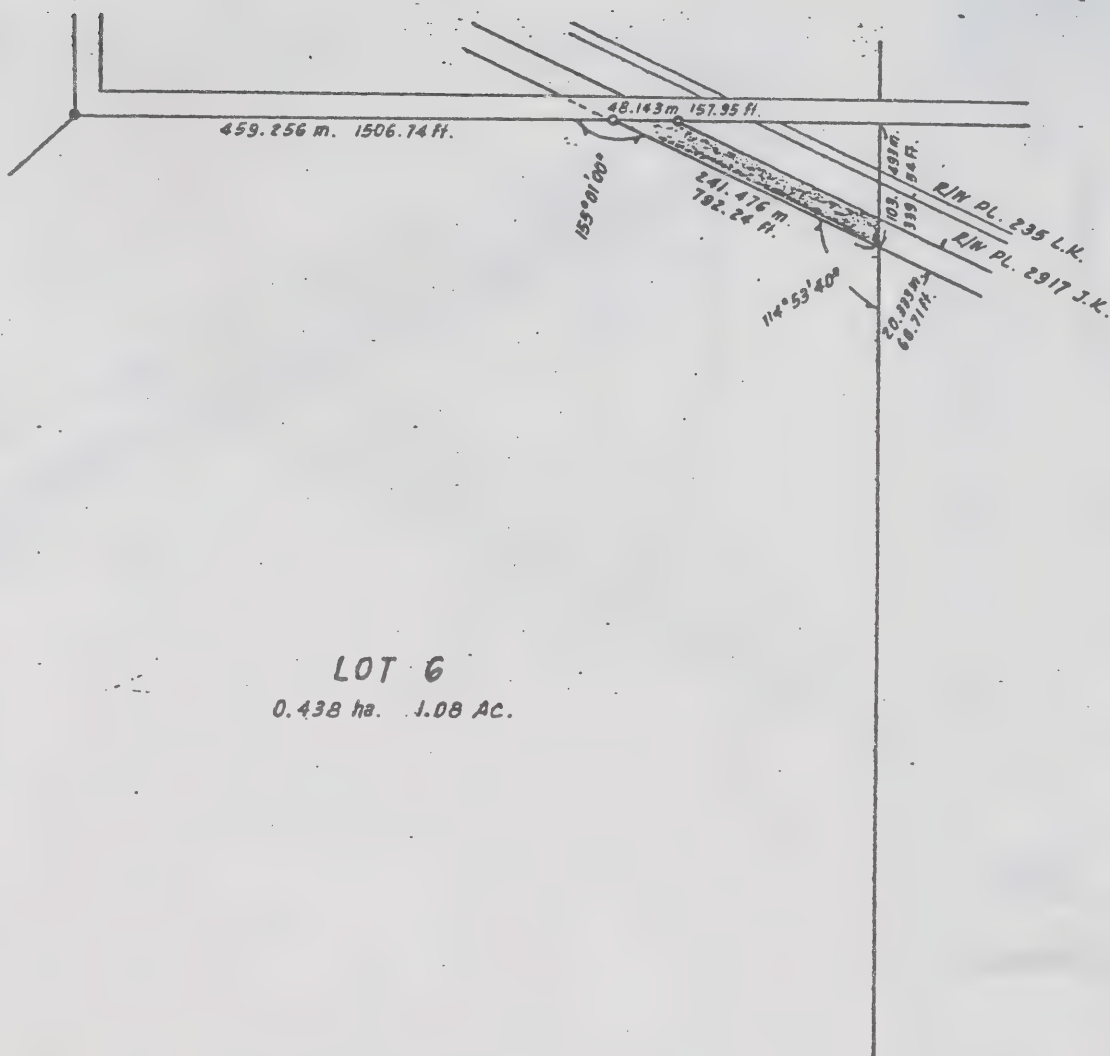
CERTIFIED CORRECT THIS 1 DAY OF JUNE 1975

B. J. Miller
A L S

SHOWING

Lot 6, Parcel C
Plan - 5755 A.W.

Twp. 26, Rge. 22, W. 4. Mer.



LOT - 6

0.438 ha. 1.08 Ac.

SCALE 1 in. = 400.00

SURVEY MONITORING FOUND SHOWN THIS

SURVEY MONUMENT PLANTED 1964X THUS

PORTIONS REFERRED TO SHOWN THUS

AREA REQ'D = 1.00 ACRES

0.438 HECTARES

CERTIFIED CORRECT THIS 1 DAY OF JUNE 197

C of T No: 731 050 745 C

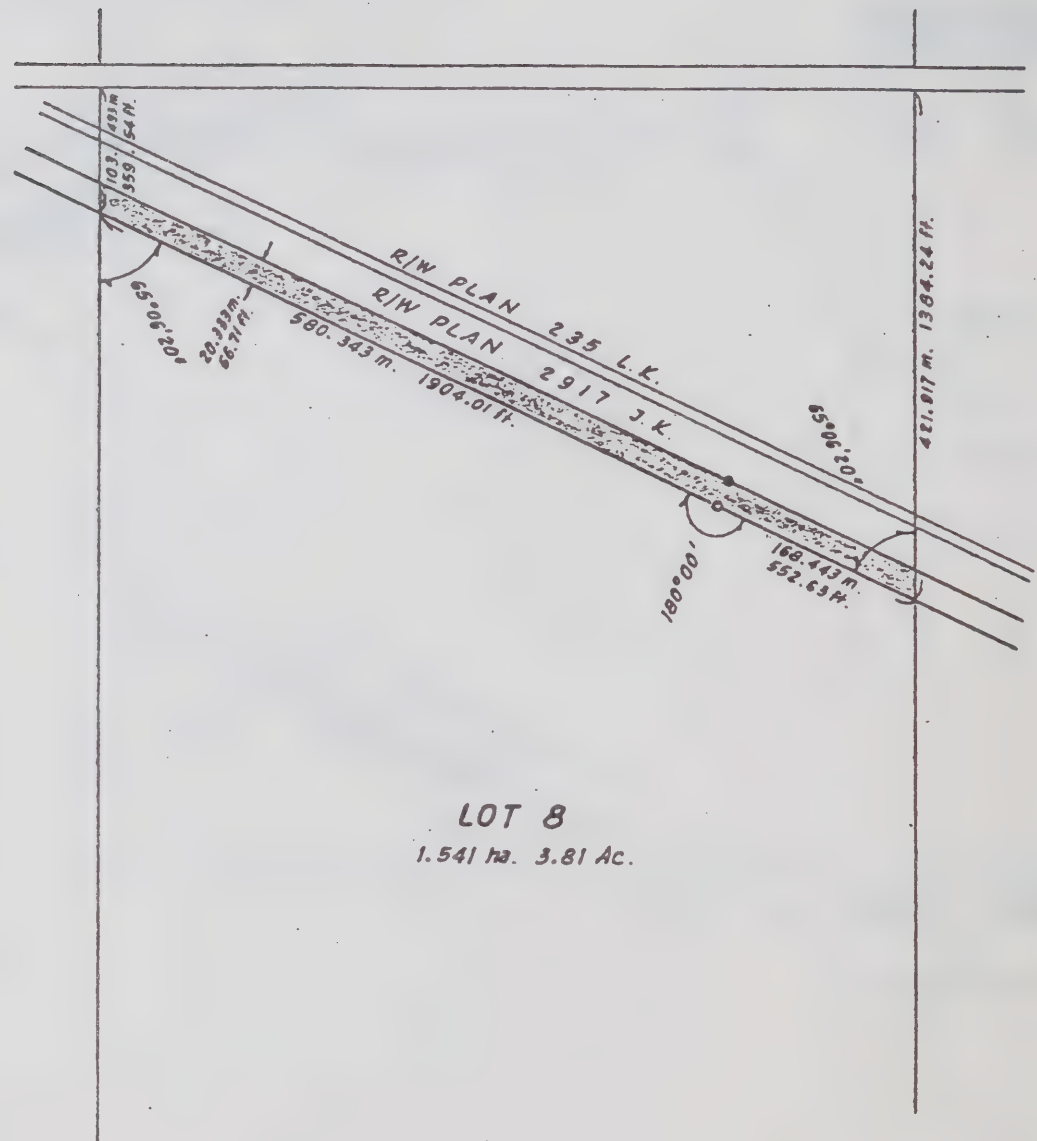
R. C. Moore

6-26-22-3

INDIVIDUAL OWNERSHIP PLAN

SHOWING
FOOTHILLS PIPE LINES (ALTA) LTD.
GAS PIPE LINE RIGHT-OF-WAY

Lot 8, Parcel C Twp 26, Rge 22, W. 4. Mer.
Plan: 5755 A.W.



LOT 8

1.541 ha. 3.81 Ac.

Owners : WILL FARMS LTD.C. of T. No: 731 050 745 E

SCALE 1 in = 5000 m

SURVEY MONUMENT FOUND SHOWN THUS ————

SURVEY MONUMENT PLANTED SHOWN THUS ————

PORTIONS REFERRED TO SHOWN THUS ————

AREA REQ'D : 3.81 ACRES

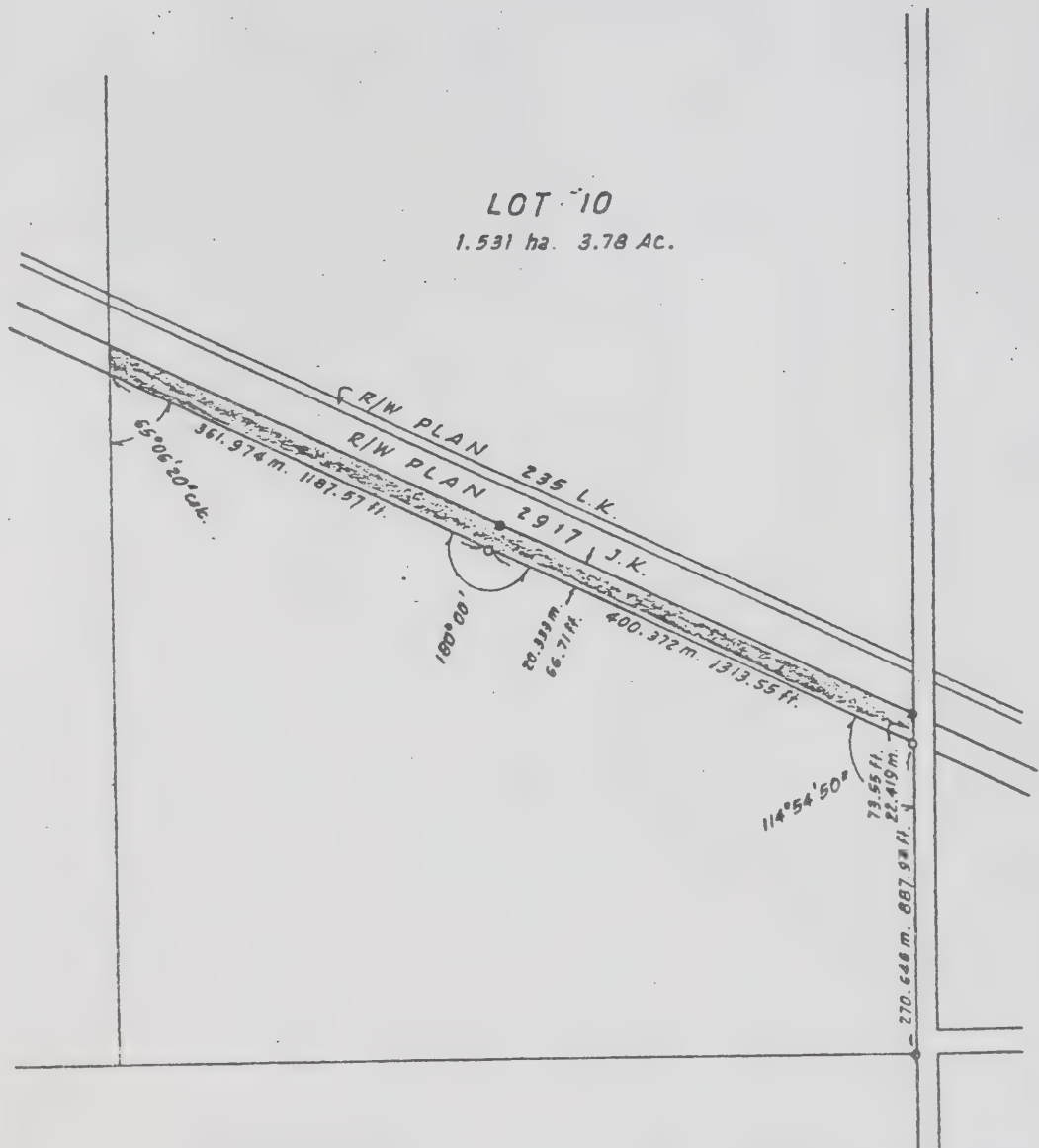
1.541 HECTARES

CERTIFIED CORRECT THIS : DAY OF JUNE 1970

INDIVIDUAL OWNERSHIP PLAN

SHOWING
FOOTHILLS PIPE LINES (ALTA) LTD.
GAS PIPE LINE RIGHT-OF-WAY

Lot 10, Parcel C Twp 26, Rge 22, W. 4. Mer.
Plan 5755 A.W.



Owners: WILL FARMS LTD.

C. of T. No.: 731 050 745 F

SCALE 1 in = 5000 m

SURVEY MONUMENT FOUND SHOWN THUS

SURVEY MONUMENT PLANTED SHOWN THUS

PORTIONS REFERRED TO SHOWN THUS

AREA REQ'D = 3.78 ACRES
1.531 HECTARES

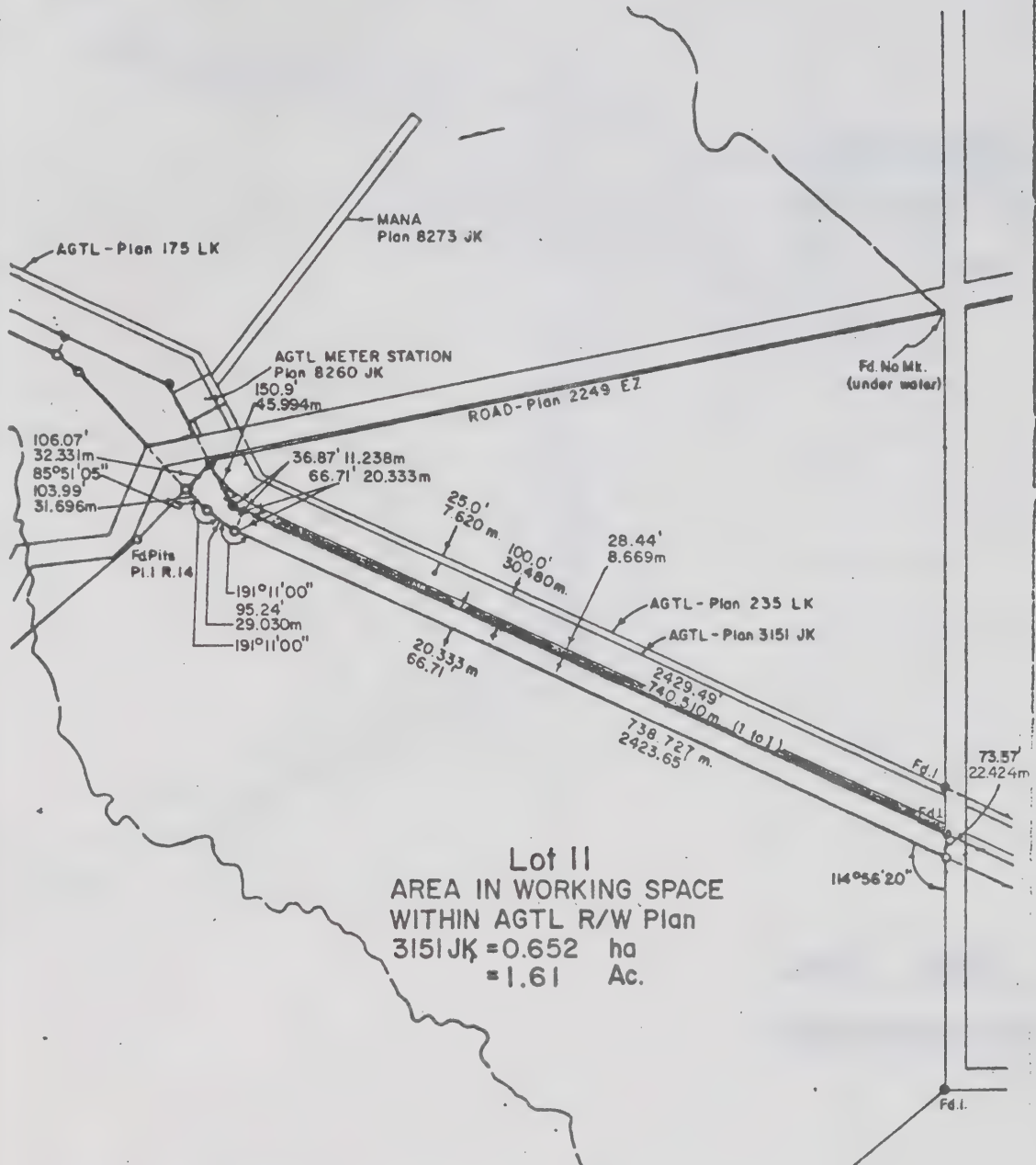
CERTIFIED CORRECT THIS 1 DAY OF JUNE

P. J. Mearns
A L S

SCHEDULE "D"






REVISED
FOOTHILLS PIPE LINES (ALTA.) LTD.
INDIVIDUAL OWNERSHIP PLAN
Showing PIPE LINE RIGHT-OF-WAY (WORKING SPACE)
IN LOT II PARCEL C PLAN 5755 AW
Scale · 1 : 5000



OWNER WILL FARMS LTD.

LEGEND

Monuments found shown thus 
Monuments planted shown thus 
Portion referred to outlined thus 

TITLE NUMBER 151 M 92

Certified Correct



ALS

DATE 19/2/79
REV. 26/6/80

75-378
ALLIANCE ENGINEERING & SURVEYS (1978) LTD.

INDIVIDUAL OWNERSHIP PLAN

SHOWING

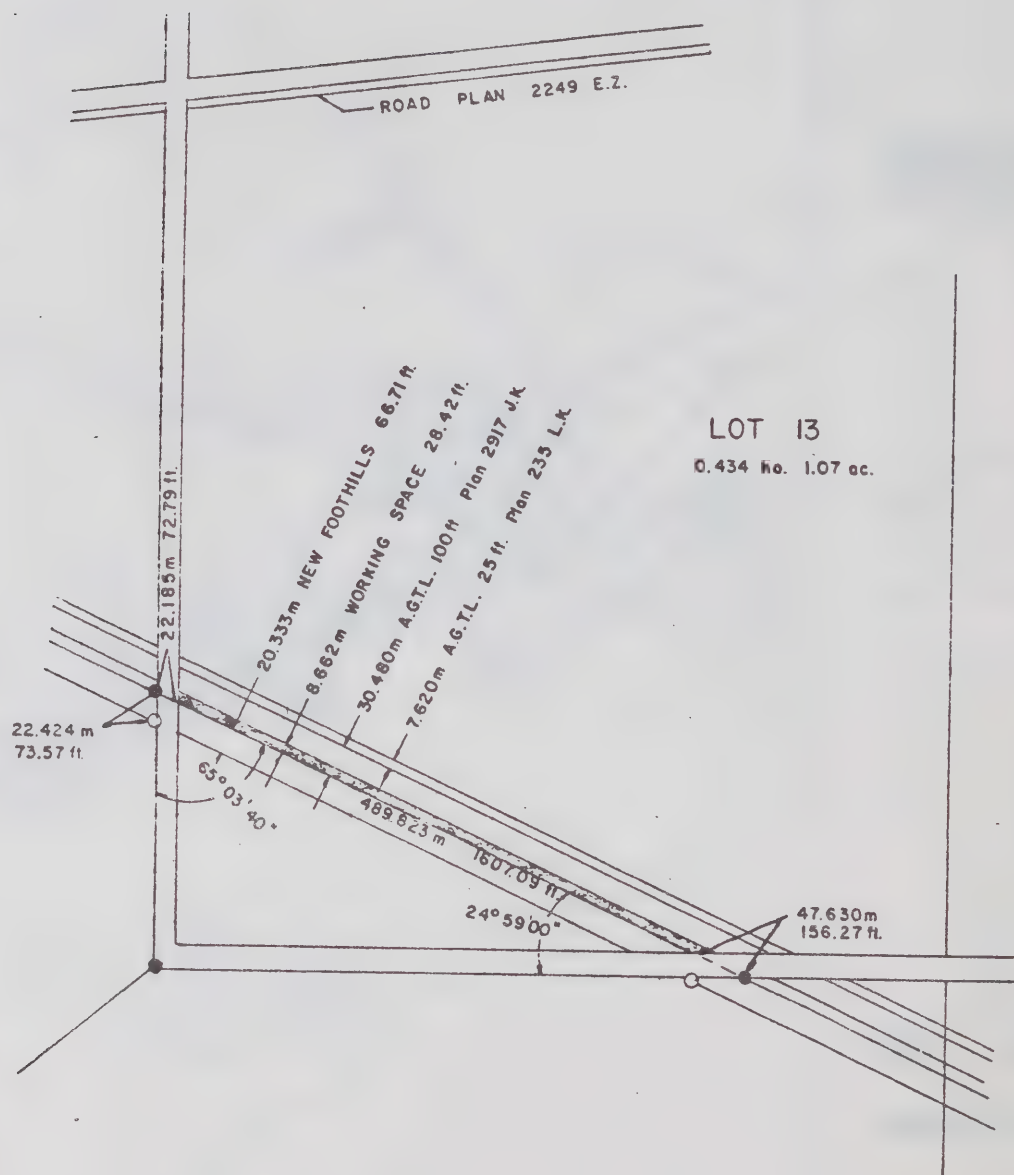
FOOTHILLS PIPE LINES (ALTA) LTD.

GAS PIPE LINE RIGHT-OF-WAY

WORKING SPACE REQUIRED WITHIN

Lot 13 Parcel C Twp 26 Rgs 22 W 4 M-

Plan 5755 AW.



WILL FARMS LTD.

151-M-9

SCALE 1" = 1000'

SURVEY MONUMENT FOUND 1894

SURVEY MONUMENT FOUND 1894

SURVEY MONUMENT FOUND 1894

SURVEY MONUMENT FOUND 1894

SURVEY MONUMENT FOUND 1894

SURVEY MONUMENT FOUND 1894

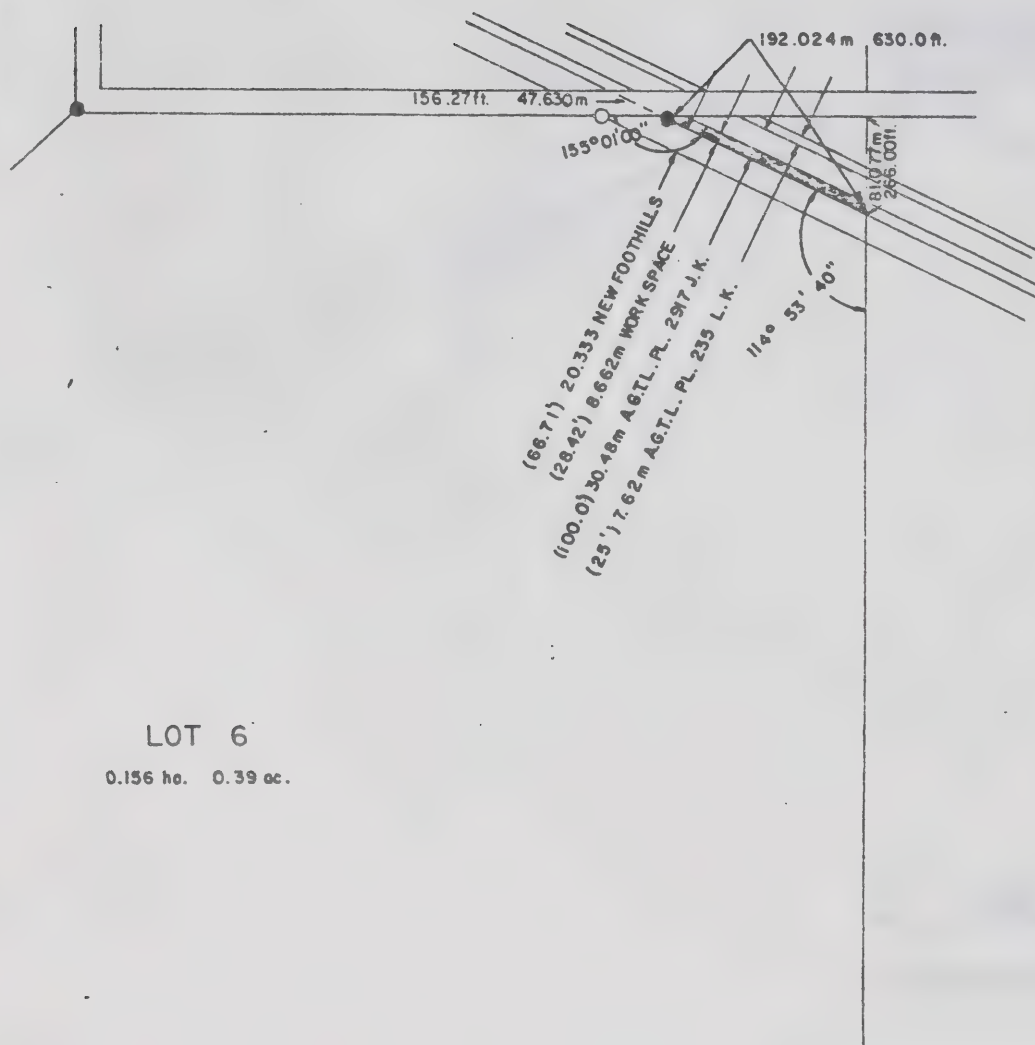
1.07
0.434

R. J. Hain

INDIVIDUAL OWNERSHIP PLAN

SHOWING
FOOTHILLS PIPE LINES (ALTA) LTD.
GAS PIPE LINE RIGHT-OF-WAY
WORKING SPACE REQUIRED WITHIN

Lot 6 Parcel C Twp 26 Rge. 22 W4 Mer
Plan 5755 A.W.



LOT 6

0.156 ha. 0.39 ac.

Owners: WILL FARMS LTD.

ST. T. NS: 731 050 745 C

SCALE 1m = 1000m

SURVEY MONUMENT FOUND SHOWN THUS

SURVEY MONUMENT PLANTED SHOWN THUS

PORTIONS REFERRED TO IN OWNERSHIP PLAN

AREA ACRES 0.39

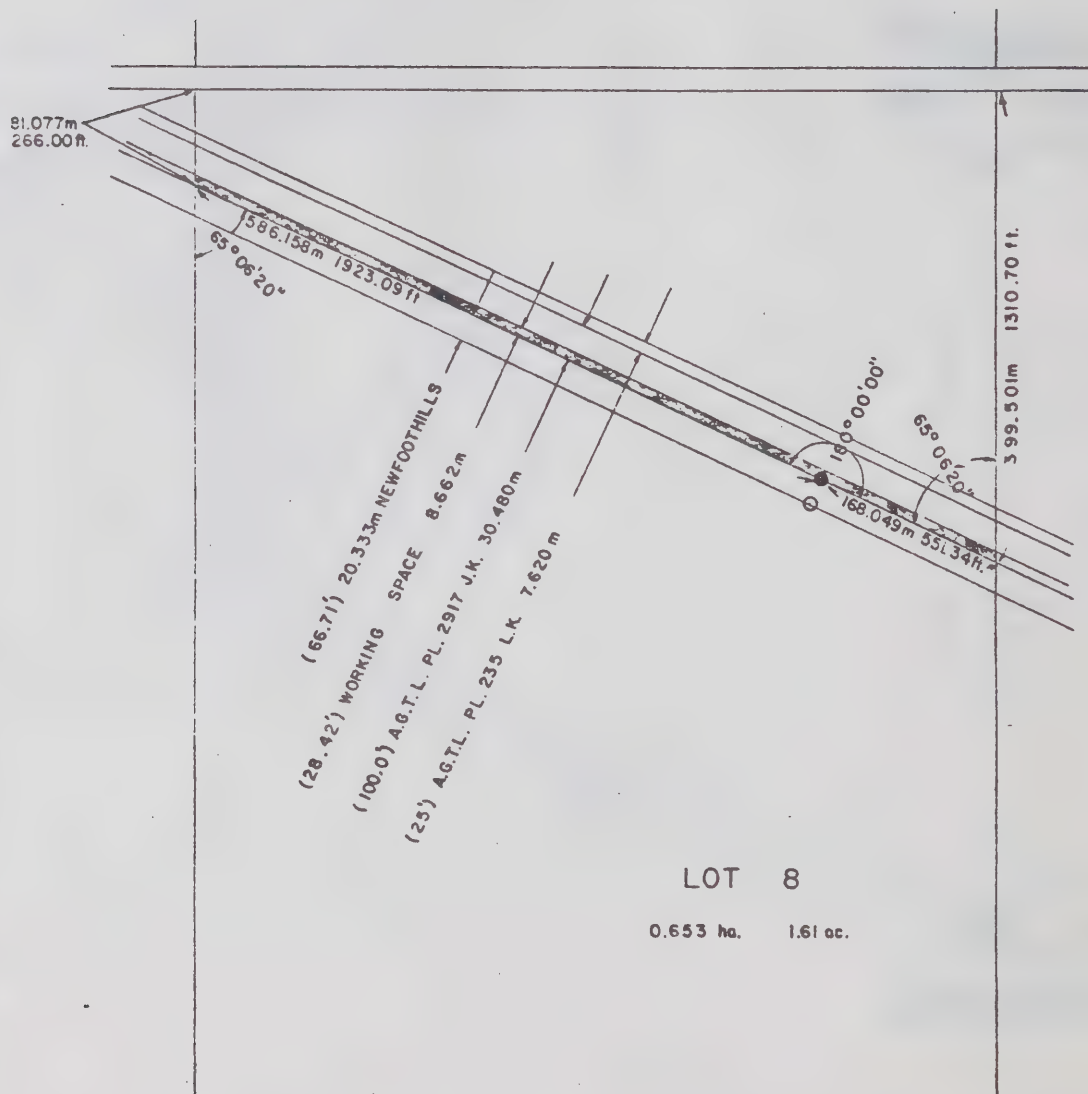
0.156

CERTIFIED CORRECT THIS DAY OF FEBRUARY

R. J. Moen

INDIVIDUAL OWNERSHIP PLAN

SHOWING
 FOOTHILLS PIPE LINES (ALTA) LTD.
 GAS PIPE LINE RIGHT-OF-WAY
 WORKING SPACE REQUIRED WITHIN
 Lot 8 Parcel C Twp. 26 Rge 22 W 4 Mer.
 Plan 5755 A.W.



Owners: WILL FARMS LTD.

of Twp. 731 050 745 E

SCALE: 1" = 500' M.

SURVEY MONUMENT FOUND SHOWN TRUE

SURVEY MONUMENT PLANTED SHOWN TRUE

PORTIONS REFERRED TO ARE SHOWN TRUE

AREA RECD. 1.61 AC.

0.653 AC.

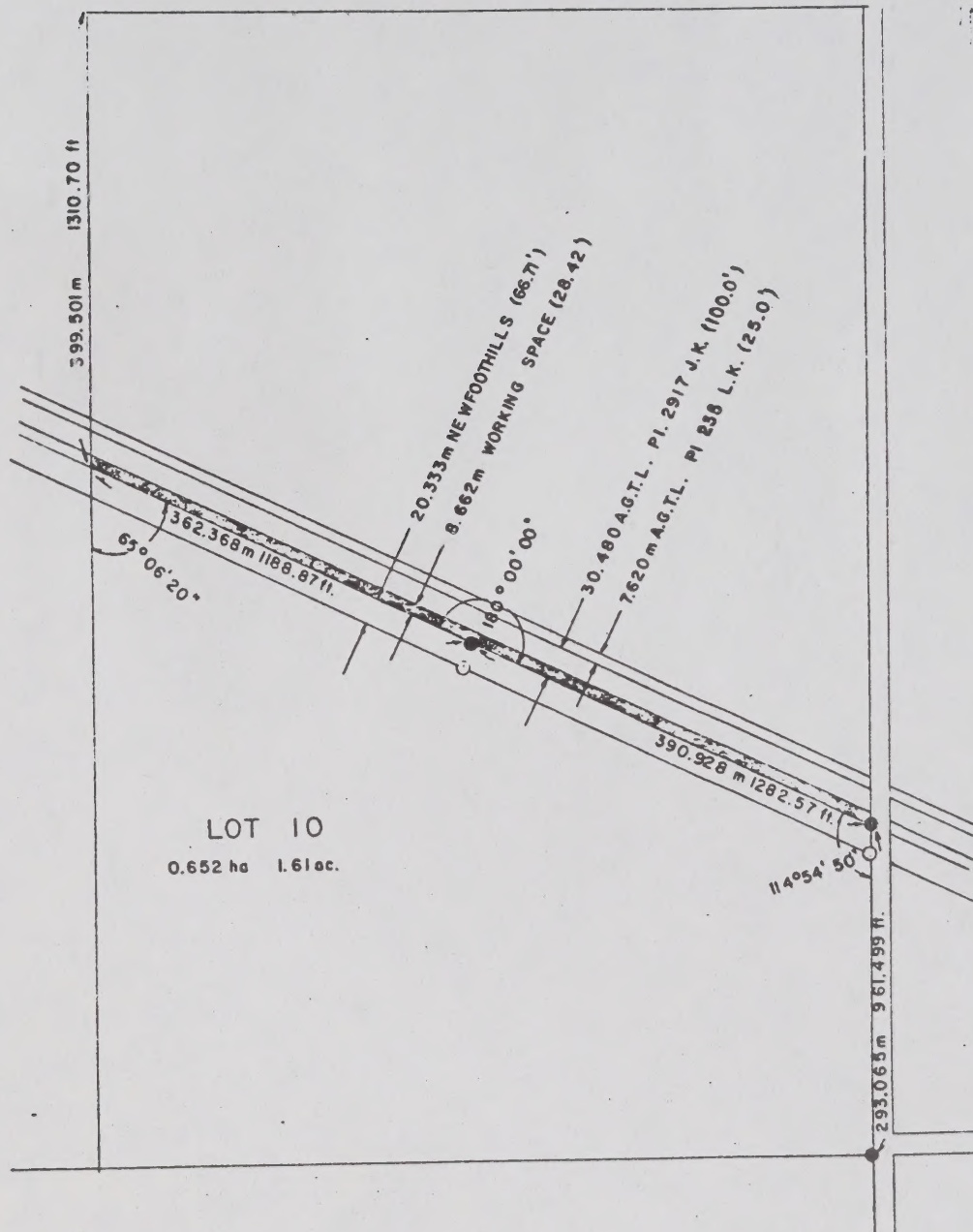
CERTIFIED CORRECT THIS 10th DAY OF FEBRUARY

R. J. Blum

INDIVIDUAL OWNERSHIP PLAN

SHOWING
FOOTHILLS PIPE LINES (ALTA) LTD.
GAS PIPE LINE RIGHT-OF-WAY
WORKING SPACE REQUIRED WITHIN

Lot 10 Parcel C Twp. 26 Rge 22 W 4 Mer.
Plan 5755 AW.



Owners: WILL FARMS LTD.

Lot No. 731 050 745 F

SCALE 1:5000

SURVEY MONUMENT FOUND SHOWN TRUE

SURVEY MONUMENT PLANTED SHOWN TRUE

PORTION REFERRED TO SHOWN TRUE

AREA 1.61 ACRES

0.652 HECTARES

CERTIFIED CORRECT AND TRUE COPY OF RECORD

R. J. Hume

